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8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN FRANCISCO DIVISION**

11 BRIGHTEDGE TECHNOLOGIES, INC.,  
12 Plaintiff,  
13 v.  
14 SEARCHMETRICS GMBH. ET AL.,  
15 Defendants.

Case No. 3:14-cv-01009-HSG

**JOINT REPORT REGARDING  
ORDER TO SHOW CAUSE AND  
[PROPOSED] ORDER**

Judge: Hon. Haywood S. Gilliam, Jr.  
Magistrate: Hon. Maria-Elena James

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18 Pursuant to this Court's Order to Show Cause dated April 22, 2016, the parties hereby  
19 submit this joint report and proposed order requesting the stay in this matter be continued as  
20 described below.

21 DATED: April 28, 2016

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23 By: Jon V. Swenson  
Jon V. Swenson

By: Carrie L. Williamson  
Carrie L. Williamson

24 BAKER BOTTS L.L.P.  
25 1001 Page Mill Road, Suite 200  
Palo Alto, California 94304  
26 Telephone: +1-650-739-7500  
Facsimile: +1-650-739-7699

DLA PIPER LLP (US)  
2000 University Avenue  
East Palo Alto, CA 94303-2248  
Telephone: (650) 833-2000  
Facsimile: (650) 833-2001

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28 Attorney for BRIGHTEDGE  
TECHNOLOGIES, INC.

Attorney for SEARCHMETRICS, INC.  
AND SEARCHMETRICS GMBH

1 Plaintiff BrightEdge Technologies, Inc. (“BrightEdge”) and Defendants Searchmetrics  
2 GmbH and Searchmetrics, Inc. (collectively, “Searchmetrics”) previously agreed to, and Judge  
3 Orrick ordered, a stay of this five-patent case until June 1, 2015. D.I. 109. Pursuant to that order,  
4 on June 1, 2015, the parties were required to file a joint case management statement to inform the  
5 Court whether a continued stay was appropriate. D.I. 109; 105 at 1. On June 1, 2015, the parties  
6 requested that the stay continue. D.I. 122, at 3. Given that the parties are currently involved in  
7 state court litigation that may inform some of the discovery in this patent litigation, the parties  
8 request that the patent case continue to be stayed as described below.

9 Searchmetrics had filed requests for *inter partes* review (“IPR”) proceedings before the  
10 Patent Trials and Appeals Board (PTAB) regarding the validity of three of the five patents in suit.  
11 The PTAB has since denied all of Searchmetrics’ requests to institute IPR proceedings.

12 BrightEdge and Searchmetrics Inc. are currently involved in extensive litigation in  
13 California State Court: *BrightEdge Technologies, Inc. v. Martinez et al.*, No. 1:13-cv-256794  
14 (Santa Clara Superior Court) (the “State Court Case”). BrightEdge’s complaint in the State Court  
15 Case includes trade secret misappropriation, civil conspiracy to commit misappropriation of trade  
16 secrets, breach of contract and civil conspiracy claims against Searchmetrics, Inc. and two former  
17 employees and one current employee of Searchmetrics. Searchmetrics’ claims against BrightEdge  
18 and two of its senior executives in the State Court Case include trade libel, intentional interference  
19 with prospective economic advantage, unfair competition, and false advertising. The parties  
20 believe that certain information discovered in the State Court Case may be relevant to issues in the  
21 Patent Case.

22 Because of overlap in subject matter, and to conserve their resources that would otherwise  
23 be necessary by continuing both litigations in parallel, the parties agree that the stay in this  
24 litigation should continue.

25 Accordingly, the parties respectfully request that the Court maintain the stay of this case  
26 until the State Court Case concludes. If, prior to the conclusion of the State Court Case, either  
27 party believes that the stay should not continue, either party may file a regularly noticed motion  
28 under the Local Rules to move to lift the stay, and the opposing party will have the time prescribed

1 under the Local Rules to file an opposition to the motion to lift the stay.

2 In the event that the Court is inclined to lift the stay now, the parties respectfully request an  
3 opportunity to further discuss this issue with the Court either through briefing, a status conference  
4 or any other manner requested by the Court.

5  
6 **[PROPOSED] ORDER**

7 Having reviewed the foregoing, and finding good cause, **IT IS HEREBY ORDERED** that  
8 this **CASE IS STAYED** until the conclusion of the State Court Case, Civil Action No. 1:13-cv-  
9 256794 (Santa Clara Superior Court). If, prior to the conclusion of the State Court Case, either  
10 party believes that the stay should not continue, either party may file a regularly noticed motion  
11 under the Local Rules to move to lift the stay, and the opposing party will have the time prescribed  
12 under the Local Rules to file an opposition to the motion to lift the stay.

13 Dated:

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Honorable Hon. Haywood S. Gilliam, Jr.